

**Economic Development, Capital Improvements and Other Taxes
Subcommittee Meeting**

April 27, 2010

The following bills were passed from the subcommittee meeting:

H.4801 - Favorable

S.1054 - Favorable with Amendment

H.4374 - Favorable with Amendment

S.717 - Favorable with Amendment

HOUSE
AMENDMENT

THIS AMENDMENT
ADOPTED

CONE/PAIR
APRIL 27, 2010

CLERK OF THE HOUSE

REP. HERBKERSMAN PROPOSES THE FOLLOWING
AMENDMENT No. TO S. 1054
(COUNCIL\DKA\3994HTC10):

REFERENCE IS TO PRINTER'S DATE 3/25/10--S.

**AMEND THE BILL, AS AND IF AMENDED, SECTION
4-10-1120(6) AS CONTAINED IN SECTION 1,
PAGE 2, BY ADDING BEGINNING ON LINE 43:**

**/ FOR THE NEW JOBS CREATED TO BE COUNTED
TOWARD THE NEW JOB CREATION
REQUIREMENTS IMPOSED PURSUANT TO ITEM (1)
OF THIS SECTION, AT LEAST NINETY PERCENT OF
THE NEW JOBS CREATED MUST BE FILLED BY
INDIVIDUALS WHO RESIDE WITHIN THIRTY MILES
OF THE DESIGNATED ECONOMIC DEVELOPMENT**

**SITE. HOWEVER, EXCEPTIONS MAY BE MADE TO
THIS RESIDENCY REQUIREMENT BY THE
UNANIMOUS APPROVAL OF THE MEMBERS OF THE
DESIGNATED ECONOMIC DEVELOPMENT SITE
OVERSIGHT COMMISSION. /**

**RENUMBER SECTIONS TO CONFORM.
AMEND TITLE TO CONFORM.**

HOUSE
AMENDMENT

THIS AMENDMENT
ADOPTED

CONE/MELTON
APRIL 27, 2010

CLERK OF THE HOUSE

REP. HERBKERSMAN PROPOSES THE FOLLOWING
AMENDMENT No. TO S. 1054
(COUNCIL\BBM\9741HTC10):

REFERENCE IS TO PRINTER'S DATE 3/25/10--S.

**AMEND THE BILL, AS AND IF AMENDED, IN
SECTION 1, PAGE 2, BY INSERTING AFTER LINE
43:**

**/ SECTION 4-10-1125. (A) IN ADDITION TO
OTHER REQUIREMENTS IMPOSED PURSUANT TO
THIS ARTICLE TO OBTAIN THE REIMBURSEMENT
PROVIDED PURSUANT TO SECTION 4-10-1160, IF
THE DESIGNATED ECONOMIC DEVELOPMENT SITE
IS LOCATED IN JURISDICTIONS WITH SEPARATE
AND DISTINCT STORMWATER ORDINANCES, THE**

STANDARDS AND CONTROLS OF THE MOST STRINGENT ORDINANCE APPLY IN THE ENTIRE SITE. SIMILARLY, IF THE SITE IS WITHIN A SINGLE JURISDICTION FOR PURPOSES OF A STORMWATER ORDINANCE AND STORMWATER FROM THE SITE IS DISCHARGED INTO WATERCOURSES IN ADJOINING JURISDICTIONS, THE MOST STRINGENT STORMWATER ORDINANCE OF THE ADJOINING JURISDICTIONS APPLY IN THE ENTIRE SITE.

(B) AN APPLICANT FOR THE REIMBURSEMENT PROVISIONS OF THIS ARTICLE MUST SUBMIT A FULLY DEVELOPED STORMWATER PLAN/MODEL DEMONSTRATING ITS COMPLIANCE WITH THE APPLICABLE STORMWATER ORDINANCE AND THE PLAN/MODEL MUST BE CERTIFIED BY THE APPLICABLE JURISDICTION'S STORMWATER AUTHORITY.

(C) AN APPLICANT FOR THE REIMBURSEMENT PROVISIONS OF THIS CHAPTER SHALL PAY FOR THIRD PARTY COMPLIANCE MONITORING OF STORMWATER DISCHARGES,

BOTH WATER QUALITY AND QUANTITY, FOR TWENTY YEARS FOLLOWING COMPLETION OF CONSTRUCTION AND INITIAL OCCUPANCY OF RETAIL SPACE. THIS RESPONSIBILITY REMAINS WITH THE ORIGINAL DEVELOPER FOR THE TWENTY YEARS AND ITS DUTY UNDER THIS REQUIREMENT MAY NOT BE ASSIGNED OR TRANSFERRED. THE THIRD PARTY MONITOR SELECTED BY THE DEVELOPER MUST BE APPROVED BY THE JURISDICTION WHOSE STORMWATER ORDINANCE APPLIES IN THE SITE.

(D) FAILURE TO MEET STORMWATER DISCHARGES AS MODELED BY THE APPLICANT AND APPROVED BY THE APPLICABLE JURISDICTION RESULTS IN THE APPLICANT BEING RESPONSIBLE FOR ALL COSTS TO REPAIR OR MODIFY STORMWATER MANAGEMENT PRACTICES TO THE APPROVED STANDARD.

(E) THE SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL SHALL ENFORCE COMPLIANCE WITH SUBSECTION (C) WITH RESPECT TO MONITORING REQUIREMENTS

**AND AS MODELED PURSUANT TO SUBSECTION (B)
WITH RESPECT TO STORMWATER DISCHARGES. /**

**RENUMBER SECTIONS TO CONFORM.
AMEND TITLE TO CONFORM.**

HOUSE
AMENDMENT

THIS AMENDMENT
ADOPTED

CONE/MELTON
APRIL 27, 2010

CLERK OF THE HOUSE

REP. HERBKERSMAN PROPOSES THE FOLLOWING
AMENDMENT No. TO S. 1054
(COUNCIL\BBM\9743HTC10):

REFERENCE IS TO PRINTER'S DATE 3/25/10--S.

**AMEND THE BILL, AS AND IF AMENDED, SECTION
4-10-1160 AS CONTAINED IN SECTION 1, PAGE 7,
BY ADDING A NEW SUBSECTION AFTER LINE 10 TO
READ:**

**/ (D) THERE IS ESTABLISHED THE
DESIGNATED ECONOMIC DEVELOPMENT SITE
OVERSIGHT COMMISSION CONSISTING OF THREE
MEMBERS APPOINTED AS FOLLOWS:**

**(1) A RESIDENT OF THE MUNICIPALITY IN
WHICH THE DESIGNATED ECONOMIC**

DEVELOPMENT SITE IS LOCATED, APPOINTED BY THE MAYOR;

(2) ONE MEMBER APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES; AND

(3) ONE MEMBER APPOINTED BY THE PRESIDENT PRO TEMPORE OF THE SENATE.

MEMBERS SHALL SERVE AT THE PLEASURE OF THEIR APPOINTING AUTHORITY. IN ADDITION TO OTHER DUTIES ASSIGNED TO THE COMMISSION PURSUANT TO THIS ARTICLE, NO FUNDS DERIVED FROM THE LOCAL OPTION EXTRAORDINARY COMMERCIAL FACILITIES FEE MAY BE DISBURSED UNLESS THE COMMISSION CERTIFIES IN WRITING TO THE MAYOR AND MUNICIPAL COUNCIL THAT THE MEMBERS OF THE COMMISSION HAVE EXAMINED THE REQUEST FOR REIMBURSEMENT AND DETERMINED UNANIMOUSLY THAT ALL REQUIREMENTS IMPOSED BY THIS ARTICLE WITH RESPECT TO THE REQUEST HAVE BEEN COMPLIED WITH.

ANY CHANGES IN DEFINITIONS OR REQUIREMENTS PROVIDED IN THIS ARTICLE MAY NOT BE ADMINISTRATIVELY WAIVED OR REVISED WITHOUT THE UNANIMOUS APPROVAL OF COMMISSION. /

**RENUMBER SECTIONS TO CONFORM.
AMEND TITLE TO CONFORM.**

DRAFT

PREPARED BY THE LEGISLATIVE COUNCIL

HOUSE AMENDMENT

THIS AMENDMENT ADOPTED

CONE/MELTON
APRIL 22, 2010

CLERK OF THE HOUSE

REP. PROPOSES THE FOLLOWING AMENDMENT
No. TO S. 1054 (COUNCIL\BBM\9735HTC10):

REFERENCE IS TO PRINTER'S DATE 3/25/10--S.

**AMEND THE BILL, AS AND IF AMENDED, BY
STRIKING SECTION 1 AND INSERTING:**

**/ SECTION 1. CHAPTER 10, TITLE 4 OF THE
1976 CODE IS AMENDED BY ADDING:**

“ARTICLE 11

LOCAL OPTION EXTRAORDINARY COMMERCIAL FACILITIES FEE

SECTION 4-10-1110. THIS ARTICLE MAY BE CITED AS THE LOCAL OPTION EXTRAORDINARY COMMERCIAL FACILITIES FEE ACT.

SECTION 4-10-1120. FOR PURPOSES OF THIS ARTICLE:

(1) DESIGNATED ECONOMIC DEVELOPMENT SITE MEANS A GEOGRAPHIC AREA WHICH HAS BEEN DESIGNATED AS A MULTICOUNTY PARK PURSUANT ARTICLE VIII, SECTION 13 OF THE SOUTH CAROLINA CONSTITUTION, 1895, AND SECTION 4-1-170, WHICH MEETS THE FOLLOWING QUALIFYING CRITERIA: (I) THE AMOUNT OF CAPITAL INVESTMENT WITHIN THE SITE IS NOT LESS THAN AN AGGREGATE AMOUNT OF ONE HUNDRED MILLION DOLLARS; AND (II) THE AGGREGATE NUMBER OF FULL-TIME JOBS WITHIN THE SITE IS NOT LESS THAN ONE THOUSAND TWO HUNDRED FIFTY THAT ARE MAINTAINED FOR AT LEAST ONE YEAR. AFTER THE FIRST YEAR OF MAINTAINING ONE

THOUSAND TWO HUNDRED FIFTY FULL-TIME JOBS, THE SITE MUST MAINTAIN AT LEAST SIX HUNDRED TWENTY-FIVE FULL-TIME JOBS FOR EACH YEAR THEREAFTER. THE NUMBER OF JOBS MAY BE BASED ON A QUARTERLY REPORT FILED WITH THE SOUTH CAROLINA EMPLOYMENT SECURITY COMMISSION OR THE BUREAU OF LABOR STATISTICS; EXCEPT THAT A CERTIFICATE BASED ON THOSE REPORTS NEED NOT INCLUDE COPIES OF THE REPORTS SO AS TO ENSURE THE MAINTENANCE OF PRIVACY OF INFORMATION IN THE REPORTS. THE MUNICIPALITY MAKING A DESIGNATION OF A DESIGNATED ECONOMIC DEVELOPMENT SITE SHALL NOTIFY THE SOUTH CAROLINA DEPARTMENT OF REVENUE OF THE BOUNDARIES OF THE DESIGNATED ECONOMIC DEVELOPMENT SITE.

(2) FEE MEANS THE LOCAL OPTION EXTRAORDINARY COMMERCIAL FACILITIES FEE ALLOWED TO BE IMPOSED AS PROVIDED IN THIS ARTICLE.

(3) INFRASTRUCTURE MEANS:

(A) WATER AND SEWER PROJECTS AND ROAD CONSTRUCTION AND IMPROVEMENT PROJECTS. THESE PROJECTS INCLUDE: PLANNING, ENGINEERING, RIGHT-OF-WAY, DRAINAGE, CURB AND GUTTER, PARKING LOTS, PARKING LIGHTING, FLASHING LIGHTS OR SIGNALS, GATES AT CROSSWAY, RESURFACING OR WIDENING, TURN LANES, AND ACCELERATION LANES;

(B) FIBER-OPTIC CABLE;

(C) RAIL SPURS; AND

(D) SITE PREPARATION, WHICH INCLUDES SURVEYING, ENVIRONMENTAL AND GEO-TECHNICAL STUDY AND MITIGATION, CLEARING, FILLING, AND GRADING.

‘INFRASTRUCTURE’ DOES NOT INCLUDE BUILDINGS, FIXTURES, LAND ACQUISITION, OR OTHER SIMILAR ITEMS.

‘INFRASTRUCTURE’ INCLUDES ONLY THOSE PROJECTS WITHIN THE SITE FOR WHICH COSTS WERE INCURRED ON OR AFTER JANUARY 1, 2007, REGARDLESS OF THE DATE OF THE INITIAL DESIGNATION OF THE SITE AS A PROPOSED DESIGNATED ECONOMIC DEVELOPMENT SITE.

(4) ‘MUNICIPALITY’ MEANS A MUNICIPAL CORPORATION CREATED PURSUANT TO CHAPTER 1, TITLE 5 OR A MUNICIPAL GOVERNMENT AS THE USE OF THE TERM DICTATES, LOCATED IN A COUNTY AS DEFINED BY SUBSECTION (1).

(5) ‘CAPITAL INVESTMENT’ MEANS PRIVATE CAPITAL INVESTMENT WITHIN THE DESIGNATED ECONOMIC DEVELOPMENT SITE BY THE OWNERS OF THE PROPERTIES WHICH COMPRISE THE SITE WHICH IS INCURRED ON OR AFTER JANUARY 1, 2007, REGARDLESS OF THE DATE OF THE INITIAL DESIGNATION OF THE SITE AS A PROPOSED DESIGNATED ECONOMIC DEVELOPMENT SITE. CAPITAL INVESTMENT SHALL NOT INCLUDE ANY COSTS INCURRED FOR THE ACQUISITION OF LAND COMPRISING THE DESIGNATED ECONOMIC DEVELOPMENT SITE.

(6) ‘JOB’ MEANS A FULL-TIME JOB CREATED IN THIS STATE ON OR AFTER JANUARY 1, 2007, IN CONNECTION WITH BUILDING AND

CONSTRUCTION WITHIN THE SITE AND STAFFING OF FACILITIES WITHIN THE SITE, REGARDLESS OF THE DATE OF THE INITIAL DESIGNATION OF THE SITE AS A PROPOSED ECONOMIC DEVELOPMENT SITE.

SECTION 4-10-1130. (A) SUBJECT TO THE REQUIREMENTS OF THIS ARTICLE, A MUNICIPALITY MAY IMPOSE EXCLUSIVELY IN THE PROPOSED DESIGNATED ECONOMIC DEVELOPMENT SITE A FEE ON ALL RETAILERS LOCATED IN THE SITE NOT TO EXCEED TWO PERCENT FOR NOT MORE THAN TWENTY YEARS. THE FEE SHALL BE IMPOSED ON THE GROSS PROCEEDS OF SALES OR SALES PRICE OF ALL AMOUNTS SUBJECT TO THE SALES AND USE TAX IMPOSED PURSUANT TO CHAPTER 36, TITLE 12, BUT NOT THE GROSS PROCEEDS OF THE SALE OF ITEMS SUBJECT TO A MAXIMUM TAX IN CHAPTER 36, TITLE 12 AND THE GROSS PROCEEDS OF SALES OF UNPREPARED FOOD THAT LAWFULLY MAY BE PURCHASED WITH UNITED STATES DEPARTMENT OF AGRICULTURE FOOD COUPONS, FOR THE PURPOSES PROVIDED IN SECTION 4-10-1160 BY:

(1) AN ORDINANCE ADOPTED BY A SUPERMAJORITY OF THE MUNICIPAL COUNCIL WHICH MUST BE AT LEAST TWO-THIRDS OF THE MEMBERS OF A MUNICIPAL COUNCIL. HOWEVER, IF THE FEE IS IMPOSED BY ORDINANCE, THE FEE MAY NOT EXCEED ONE PERCENT ON THE GROSS PROCEEDS OF SALES OR SALES PRICE OF ALL AMOUNTS SUBJECT TO THE SALES AND USE TAX IMPOSED PURSUANT TO CHAPTER 36, TITLE 12, BUT NOT THE GROSS PROCEEDS OF THE SALE OF ITEMS SUBJECT TO A MAXIMUM TAX IN CHAPTER 36, TITLE 12 AND THE GROSS PROCEEDS OF SALES OF UNPREPARED FOOD THAT LAWFULLY MAY BE PURCHASED WITH UNITED STATES DEPARTMENT OF AGRICULTURE FOOD COUPONS; OR

(2) THE APPROVAL OF A MAJORITY OF QUALIFIED ELECTORS VOTING IN A REFERENDUM HELD PURSUANT TO THIS SECTION CALLED BY A MAJORITY OF THE MEMBERS OF THE MUNICIPAL COUNCIL.

IN THE CASE OF AN IMPOSITION BY ORDINANCE, THE TEXT OF THE ORDINANCE MUST CONTAIN A DETAILED STATEMENT THAT THE

DESIGNATED ECONOMIC DEVELOPMENT SITE WILL MEET THE REQUIREMENTS SET FORTH IN SECTION 4-10-1120(1) BEFORE THE MUNICIPALITY MAY PAY ANY INFRASTRUCTURE REIMBURSEMENT. REGARDLESS OF THE METHOD OF IMPOSITION, IF THE SITE FAILS TO MAINTAIN THE REQUIREMENTS SET FORTH IN SECTION 4-10-1120(1), THE MUNICIPALITY MAY INCLUDE, AT THE MUNICIPAL COUNCIL'S DISCRETION, PROVISIONS IN THE ORDINANCE WHICH MAY SUSPEND OR REPEAL THE FEE, OR REQUIRE THE OWNERS OF THE SITE TO REFUND TO THE MUNICIPALITY ANY FEE REVENUES EXPENDED ON INFRASTRUCTURE WITHIN THE SITE ON A PRO-RATA BASIS OR OTHERWISE, AS THE COUNCIL MAY DEEM NECESSARY OR APPROPRIATE.

(B)(1) UPON THE ADOPTION OF A RESOLUTION CALLING FOR A REFERENDUM BY THE MUNICIPAL COUNCIL, THE MUNICIPAL ELECTION COMMISSION IN EACH MUNICIPALITY SHALL CONDUCT A REFERENDUM ON THE FIRST TUESDAY NINETY DAYS AFTER THE ADOPTION OF THE RESOLUTION ON THE QUESTION OF IMPLEMENTING THE FEE WITHIN THE MUNICIPALITY. THE STATE ELECTION LAWS APPLY TO THE REFERENDUM, MUTATIS MUTANDIS. THE MUNICIPAL ELECTION COMMISSION SHALL PUBLISH THE RESULTS OF THE REFERENDUM AND CERTIFY THEM TO THE MUNICIPAL COUNCIL. THE FEE MUST NOT BE IMPOSED IN THE MUNICIPALITY, UNLESS A MAJORITY OF THE QUALIFIED ELECTORS VOTING IN THE REFERENDUM APPROVE THE QUESTION.

(2) THE BALLOT MUST READ SUBSTANTIALLY AS FOLLOWS:

MUST A [ONE OR TWO] PERCENT FEE ON THE GROSS PROCEEDS OF SALES OR SALES PRICE OF ALL AMOUNTS SUBJECT TO THE SALES AND USE TAX IMPOSED PURSUANT TO CHAPTER 36, TITLE 12, BUT NOT THE GROSS PROCEEDS OF THE SALE OF ITEMS SUBJECT TO A MAXIMUM TAX IN CHAPTER 36, TITLE 12 AND THE GROSS PROCEEDS OF SALES OF UNPREPARED FOOD THAT LAWFULLY MAY BE PURCHASED WITH UNITED STATES DEPARTMENT OF AGRICULTURE FOOD COUPONS, BE LEVIED FOR THE PURPOSE OF PROVIDING FUNDING TO DEFRAY THE COST OF

INFRASTRUCTURE AT THE _____ DESIGNATED ECONOMIC DEVELOPMENT SITE, WHICH WILL INVEST AT LEAST ONE HUNDRED MILLION DOLLARS, AND CREATE AT LEAST ONE THOUSAND TWO HUNDRED FIFTY JOBS FOR AT LEAST THE FIRST YEAR AND SHALL MAINTAIN AT LEAST SIX HUNDRED TWENTY-FIVE JOBS THEREAFTER?

Yes ☐

No ☐

(3) IF THE QUESTION IS NOT APPROVED AT THE INITIAL REFERENDUM, THE MUNICIPAL COUNCIL MAY CALL FOR ANOTHER REFERENDUM ON THE QUESTION. HOWEVER, FOLLOWING THE INITIAL REFERENDUM, A REFERENDUM FOR THIS PURPOSE MUST NOT BE HELD MORE OFTEN THAN ONCE IN A TWENTY-FOUR MONTH PERIOD ON THE TUESDAY FOLLOWING THE FIRST MONDAY IN NOVEMBER IN EVEN-NUMBERED YEARS.

(4) TWO WEEKS BEFORE THE REFERENDUM, THE MUNICIPAL COUNCIL SHALL PUBLISH IN A NEWSPAPER OF GENERAL CIRCULATION WITHIN THE JURISDICTION A DESCRIPTION OF AND THE USES FOR THE FEE AND A COPY OF THE REFERENDUM QUESTION.

(C) THE IMPOSITION DATE OF THE FEE ALLOWED PURSUANT TO THIS ARTICLE IS THE FIRST DAY OF THE FIRST MONTH BEGINNING MORE THAN SIXTY DAYS AFTER THE MUNICIPALITY FILES A CERTIFIED COPY OF THE IMPOSITION ORDINANCE OR THE CERTIFICATION OF THE RESULTS OF THE REFERENDUM WITH THE SOUTH CAROLINA DEPARTMENT OF REVENUE.

(D) ONCE A CERTIFIED COPY OF THE ORDINANCE OR REFERENDUM RESULTS IS FILED WITH THE DEPARTMENT OF REVENUE, FOR THE PERIOD OF IMPOSITION PROVIDED IN THAT ORDINANCE OR REFERENDUM, THE DEPARTMENT MAY NOT ACCEPT AS FILED ANY ADDITIONAL ORDINANCE OR REFERENDUM RESULTS FROM THE

MUNICIPALITY THAT IN ANY WAY RELATES TO THE FEE ALLOWED TO BE IMPOSED PURSUANT TO THIS ARTICLE EXCEPT AN ORDINANCE ENACTED BY A SUPERMAJORITY OF THE MUNICIPAL COUNCIL WHICH MUST BE AT LEAST TWO-THIRDS OF THE MEMBERS OF A MUNICIPAL COUNCIL OR RESULTS OF A REFERENDUM CONDUCTED WITH THE SAME REQUIREMENTS SET FORTH IN SUBSECTION (B) RESCINDING THE EXISTING FEE. THE DEPARTMENT OF REVENUE SHALL ACCEPT FOR FILING A CERTIFIED COPY OF AN ORDINANCE OR REFERENDUM RESULTS RESCINDING THE FEE AND SUCH RESCISSION SHALL APPLY IN THE MANNER PROVIDED IN SECTION 4-10-1130 FOR IMPOSITION.

(E) THE MUNICIPALITY SHALL RESCIND THE FEE ON ALL, OR A PORTION OF, THE SITE UPON WRITTEN PETITION OF ALL OF THE PROPERTY OWNERS IN THE ENTIRE SITE.

SECTION 4-10-1140. (A) THE FEE ALLOWED BY THIS ARTICLE IS AN AMOUNT NOT TO EXCEED TWO PERCENT ON THE GROSS PROCEEDS OF SALES OR SALES PRICE OF ALL AMOUNTS SUBJECT TO THE SALES AND USE TAX IMPOSED PURSUANT TO CHAPTER 36, TITLE 12, BUT NOT THE GROSS PROCEEDS OF THE SALE OF ITEMS SUBJECT TO A MAXIMUM TAX IN CHAPTER 36, TITLE 12 AND THE GROSS PROCEEDS OF SALES OF UNPREPARED FOOD THAT LAWFULLY MAY BE PURCHASED WITH UNITED STATES DEPARTMENT OF AGRICULTURE FOOD COUPONS.

(B) THE FEE IMPOSED PURSUANT TO THIS ARTICLE MUST BE ADMINISTERED AND COLLECTED BY THE DEPARTMENT OF REVENUE IN THE SAME MANNER THAT SALES AND USE TAXES ARE COLLECTED. THE DEPARTMENT MAY PRESCRIBE AMOUNTS THAT MAY BE ADDED TO THE SALES PRICE BECAUSE OF THE FEE.

(C) THE FEE AUTHORIZED BY THIS ARTICLE IS IN ADDITION TO ALL OTHER STATE AND LOCAL SALES AND USE TAXES AND APPLIES TO THE GROSS PROCEEDS OF SALES IN THE DESIGNATED ECONOMIC DEVELOPMENT SITE THAT IS SUBJECT TO THE TAX IMPOSED BY CHAPTER 36, TITLE 12 AND THE ENFORCEMENT PROVISIONS OF

CHAPTER 54, TITLE 12. THE GROSS PROCEEDS OF THE SALE OF ITEMS SUBJECT TO A MAXIMUM TAX IN CHAPTER 36, TITLE 12 AND THE GROSS PROCEEDS OF SALES OF UNPREPARED FOOD THAT LAWFULLY MAY BE PURCHASED WITH UNITED STATES DEPARTMENT OF AGRICULTURE FOOD COUPONS ARE EXEMPT FROM THE FEE IMPOSED BY THIS ARTICLE. THE FEE IMPOSED BY THIS ARTICLE ALSO APPLIES TO TANGIBLE PERSONAL PROPERTY SUBJECT TO THE USE TAX IN ARTICLE 13, CHAPTER 36, TITLE 12.

(D) THE PROVISIONS OF SUBSECTIONS (C), (D), (E), (F), AND (G) OF SECTION 4-10-350 APPLY FOR FEE PAYORS AND THE FEE ALLOWED TO BE IMPOSED PURSUANT TO THIS ARTICLE, INCLUDING FURTHER IDENTIFICATION OF POINT OF SALE JURISDICTIONS, MUTATIS MUTANDIS.

(E)(1) THE REVENUES OF THE FEE IMPOSED PURSUANT TO THIS ARTICLE MUST BE REMITTED TO THE DEPARTMENT OF REVENUE AND PLACED ON DEPOSIT WITH THE STATE TREASURER AND CREDITED TO A FUND SEPARATE AND DISTINCT FROM THE GENERAL FUND OF THE STATE. AFTER DEDUCTING THE AMOUNT OF ANY REFUNDS MADE AND COSTS TO THE DEPARTMENT OF REVENUE OF ADMINISTERING THE TAX, NOT TO EXCEED ONE PERCENT OF THE REVENUES, THE STATE TREASURER SHALL DISTRIBUTE THE REVENUES AND INTEREST QUARTERLY BASED ON POINT OF COLLECTION TO THE TREASURER OF THE MUNICIPALITY IN WHICH THE FEE IS IMPOSED AND THE REVENUES MUST BE USED ONLY FOR THE PURPOSES PROVIDED IN SECTION 4-10-1160. THE STATE TREASURER MAY CORRECT MISALLOCATIONS BY ADJUSTING SUBSEQUENT DISTRIBUTIONS, BUT THESE ADJUSTMENTS MUST BE MADE IN THE SAME FISCAL YEAR AS THE MISALLOCATIONS. HOWEVER, ALLOCATIONS MADE AS A RESULT OF MUNICIPAL CODE ERRORS MUST BE CORRECTED PROSPECTIVELY.

(2) PRIOR TO A DESIGNATED ECONOMIC DEVELOPMENT SITE MEETING THE CRITERIA SET FORTH IN SECTION 4-10-1120(1), UPON RECEIPT OF THE REVENUES AND INTEREST FROM THE DEPARTMENT OF

REVENUE, THE MUNICIPALITY SHALL DEPOSIT THE REVENUE IN A SEPARATE ACCOUNT. ANY INTEREST ACCRUED IN THE ACCOUNT SHALL BE CREDITED TO THE ACCOUNT. THE MUNICIPALITY MAY NOT EXPEND ANY FUNDS FOR THE REIMBURSEMENT OF INFRASTRUCTURE UNTIL THE DESIGNATED ECONOMIC DEVELOPMENT SITE MEETS THE CRITERIA SET FORTH IN SECTION 4-10-1120(1).

SECTION 4-10-1150. THE DEPARTMENT OF REVENUE SHALL FURNISH DATA TO THE STATE TREASURER AND TO THE MUNICIPAL TREASURERS RECEIVING REVENUES FOR THE PURPOSE OF CALCULATING DISTRIBUTIONS AND ESTIMATING REVENUES. THE INFORMATION THAT MUST BE SUPPLIED TO MUNICIPALITIES UPON REQUEST INCLUDES, BUT IS NOT LIMITED TO, GROSS RECEIPTS, NET TAXABLE SALES, AND TAX LIABILITY BY TAXPAYERS. INFORMATION ABOUT A SPECIFIC TAXPAYER IS CONSIDERED CONFIDENTIAL AND IS GOVERNED BY THE PROVISIONS OF SECTION 12-54-240. A PERSON VIOLATING THIS SECTION IS SUBJECT TO THE PENALTIES PROVIDED IN SECTION 12-54-240.

SECTION 4-10-1160. (A) ALL FEE REVENUES AND INTEREST ON THE FEE REVENUES MUST BE USED EXCLUSIVELY FOR INFRASTRUCTURE LOCATED IN THE DESIGNATED ECONOMIC DEVELOPMENT SITE FROM WHICH SUCH FEES WERE COLLECTED.

(B) A MUNICIPALITY MAY TREAT SUCH FEES AS REVENUES FROM A MULTICOUNTY PARK PURSUANT TO ARTICLE VIII, SECTION 13 OF THE SOUTH CAROLINA CONSTITUTION, 1895, AND SECTION 4-1-170. THE MUNICIPALITY MAY USE THE FEES AS PROVIDED IN SECTION 4-1-175 AS IF SUCH FEES WERE REVENUES FROM PAYMENT IN LIEU OF TAXES, PROVIDED THAT THE FEES MAY ONLY BE USED FOR THE PURPOSES SPECIFIED IN THIS SECTION.

(C) FEE REVENUES FROM A DESIGNATED ECONOMIC DEVELOPMENT SITE MAY BE USED TO REIMBURSE AN OWNER OF

PROPERTY LOCATED IN THE DESIGNATED ECONOMIC DEVELOPMENT SITE FOR ITS INVESTMENT IN INFRASTRUCTURE ONLY IF: (A) THE OWNER SHALL HAVE ACTUALLY EXPENDED IN QUALIFYING INFRASTRUCTURE NOT LESS THAN SUCH AMOUNT TO BE REIMBURSED, AND (B) THE DEPARTMENT OF REVENUE CERTIFIES THAT (I) THE ITEMS OR ACTIVITIES FOR WHICH SUCH REIMBURSEMENT IS REQUESTED QUALIFY AS INFRASTRUCTURE AS DEFINED IN THIS ARTICLE, AND (II) THE AMOUNT ACTUALLY EXPENDED BY THE OWNER ON ELIGIBLE INFRASTRUCTURE IS ACCURATE AND ELIGIBLE FOR REIMBURSEMENT.” /

AMEND FURTHER, AS AND IF AMENDED, PAGE 11, BY ADDING A PENULTIMATE SECTION APPROPRIATELY NUMBERED TO READ:

/ SECTION __. IF ANY SECTION, SUBSECTION, PARAGRAPH, SUBPARAGRAPH, SENTENCE, CLAUSE, PHRASE, OR WORD OF THIS ACT IS FOR ANY REASON HELD TO BE UNCONSTITUTIONAL OR INVALID, SUCH HOLDING SHALL NOT AFFECT THE CONSTITUTIONALITY OR VALIDITY OF THE REMAINING PORTIONS OF THIS ACT, THE GENERAL ASSEMBLY HEREBY DECLARING THAT IT WOULD HAVE PASSED THIS ACT, AND EACH AND EVERY SECTION, SUBSECTION, PARAGRAPH, SUBPARAGRAPH, SENTENCE, CLAUSE, PHRASE, AND WORD THEREOF, IRRESPECTIVE OF THE FACT THAT ANY ONE OR MORE OTHER SECTIONS, SUBSECTIONS, PARAGRAPHS, SUBPARAGRAPHS, SENTENCES, CLAUSES, PHRASES, OR WORDS HEREOF MAY BE DECLARED TO BE UNCONSTITUTIONAL, INVALID, OR OTHERWISE INEFFECTIVE. /

RENUMBER SECTIONS TO CONFORM.

AMEND TITLE TO CONFORM.

HOUSE
AMENDMENT

THIS AMENDMENT
ADOPTED

CONE/MELTON
APRIL 20, 2010

CLERK OF THE HOUSE

REP. PROPOSES THE FOLLOWING AMENDMENT No. TO S.
1054 (COUNCIL\BBM\9733HTC10):

REFERENCE IS TO PRINTER'S DATE 3/25/10--S.

**AMEND THE BILL, AS AND IF AMENDED, BY
STRIKING SECTION 4-10-1120, AS CONTAINED IN
SECTION 1, BEGINNING ON PAGE 1 AND
INSERTING:**

**/ "SECTION 4-10-1120. FOR PURPOSES OF
THIS ARTICLE:**

**(1)'DESIGNATED ECONOMIC DEVELOPMENT
SITE' MEANS A GEOGRAPHIC AREA DESIGNATED
BY A MUNICIPALITY WHICH INCLUDES AREA
THAT IS PART OF A MULTICOUNTY PARK
CREATED PURSUANT ARTICLE VIII, SECTION 13**

OF THE SOUTH CAROLINA CONSTITUTION, 1895, AND SECTION 4-1-170, WHICH MEETS THE QUALIFYING CRITERIA. A MUNICIPALITY MAY SET THE GEOGRAPHIC AREA TO INCLUDE ANY AREA WITHIN THE BOUNDARIES OF THE MUNICIPALITY THAT IS CONTIGUOUS TO AN AREA INCLUDED IN A MULTICOUNTY PARK.

(2)‘FEE’ MEANS THE LOCAL OPTION EXTRAORDINARY COMMERCIAL FACILITIES FEE ALLOWED TO BE IMPOSED AS PROVIDED IN THIS ARTICLE.

(3)‘INFRASTRUCTURE’ MEANS:

(A) WATER AND SEWER PROJECTS AND ROAD CONSTRUCTION AND IMPROVEMENT PROJECTS. THESE PROJECTS INCLUDE: PLANNING, ENGINEERING, RIGHT-OF-WAY, DRAINAGE, CURB AND GUTTER, PARKING LOTS, PARKING LIGHTING, FLASHING LIGHTS OR SIGNALS, GATES AT CROSSWAY, RESURFACING OR WIDENING, TURN LANES, AND ACCELERATION LANES;

(B) FIBER-OPTIC CABLE;

(C) RAIL SPURS; AND

(D) SITE PREPARATION, WHICH INCLUDES SURVEYING, ENVIRONMENTAL AND GEO-TECHNICAL STUDY AND MITIGATION, CLEARING, FILLING, AND GRADING.

‘INFRASTRUCTURE’ DOES NOT INCLUDE BUILDINGS, FIXTURES, LAND ACQUISITION, OR OTHER SIMILAR ITEMS EXCEPT TO THE EXTENT SUCH ITEMS ARE PART OF OR INTEGRAL TO THE ITEMS LISTED IN (A) THROUGH (D) ABOVE.

‘INFRASTRUCTURE’ INCLUDES ONLY THOSE PROJECTS FOR WHICH COSTS WERE INCURRED NOT SOONER THAN TWO YEARS BEFORE THE INITIAL IDENTIFICATION OF A SITE AS A PROPOSED DESIGNATED ECONOMIC DEVELOPMENT SITE.

(4)‘INITIAL IDENTIFICATION’ WITH RESPECT TO A DESIGNATED ECONOMIC DEVELOPMENT SITE MEANS THE FIRST ACTION TAKEN BY A MUNICIPALITY IDENTIFYING A GEOGRAPHIC AREA WHICH IS SUBSEQUENTLY INCLUDED IN A DESIGNATED ECONOMIC DEVELOPMENT SITE.

(5) 'MUNICIPALITY' MEANS A MUNICIPAL CORPORATION CREATED PURSUANT TO CHAPTER 1, TITLE 5 OR A MUNICIPAL GOVERNMENT AS THE USE OF THE TERM DICTATES, LOCATED IN A COUNTY AS DEFINED BY SUBSECTION (1).

(6) 'NEW CAPITAL INVESTMENT' MEANS PRIVATE CAPITAL INVESTMENT WITHIN THE DESIGNATED ECONOMIC DEVELOPMENT SITE BY THE OWNERS OF THE PROPERTIES WHICH COMPRISE THE SITE WHICH IS INCURRED NOT SOONER THAN TWO YEARS BEFORE THE INITIAL IDENTIFICATION OF THE SITE AS A PROPOSED DESIGNATED ECONOMIC DEVELOPMENT SITE.

(7) 'NEW JOB' MEANS A NEW FULL-TIME JOB OR PART-TIME JOB CREATED IN THIS STATE AT THE TIME A NEW FACILITY IS INITIALLY STAFFED.

(8) 'QUALIFYING CRITERIA' MEANS A DESIGNATED ECONOMIC DEVELOPMENT SITE IN WHICH: (I) THE AMOUNT OF NEW CAPITAL INVESTMENT WITHIN THE SITE IS NOT LESS THAN AN AGGREGATE AMOUNT OF ONE HUNDRED MILLION DOLLARS; AND (II) THE AGGREGATE NUMBER OF NEW JOBS WITHIN THE SITE IS NOT LESS THAN ONE THOUSAND THAT ARE MAINTAINED FOR AT LEAST ONE YEAR. AFTER THE FIRST YEAR OF MAINTAINING ONE THOUSAND NEW JOBS, THE SITE MUST MAINTAIN AT LEAST FIVE HUNDRED JOBS FOR EACH YEAR THEREAFTER. THE NUMBER OF NEW JOBS MAY BE BASED ON A QUARTERLY REPORT FILED WITH THE SOUTH CAROLINA EMPLOYMENT SECURITY COMMISSION OR THE BUREAU OF LABOR STATISTICS; EXCEPT THAT A CERTIFICATE BASED ON THOSE REPORTS NEED NOT INCLUDE COPIES OF THE REPORTS SO AS TO ENSURE THE MAINTENANCE OF PRIVACY OF INFORMATION IN THE REPORTS. THE MUNICIPALITY MAKING A DESIGNATION OF A DESIGNATED ECONOMIC DEVELOPMENT SITE SHALL NOTIFY THE SOUTH CAROLINA DEPARTMENT OF REVENUE OF THE BOUNDARIES OF THE DESIGNATED ECONOMIC DEVELOPMENT SITE." /

AMEND FURTHER, AS AND IF AMENDED, BY STRIKING SECTION 4-10-1130(A), AS CONTAINED IN SECTION 1, PAGE 3 AND INSERTING:

“(A) SUBJECT TO THE REQUIREMENTS OF THIS ARTICLE, A MUNICIPALITY MAY IMPOSE EXCLUSIVELY IN THE PROPOSED DESIGNATED ECONOMIC DEVELOPMENT SITE A FEE ON ALL RETAILERS LOCATED IN THE SITE NOT TO EXCEED TWO PERCENT FOR NOT MORE THAN THIRTY YEARS. THE FEE SHALL BE IMPOSED ON THE GROSS PROCEEDS OF SALES OR SALES PRICE OF ALL AMOUNTS SUBJECT TO THE SALES AND USE TAX IMPOSED PURSUANT TO CHAPTER 36, TITLE 12, BUT NOT THE GROSS PROCEEDS OF THE SALE OF ITEMS SUBJECT TO A MAXIMUM TAX IN CHAPTER 36, TITLE 12 AND THE GROSS PROCEEDS OF SALES OF UNPREPARED FOOD THAT LAWFULLY MAY BE PURCHASED WITH UNITED STATES DEPARTMENT OF AGRICULTURE FOOD COUPONS, FOR THE PURPOSES PROVIDED IN SECTION 4-10-1160 BY:

(1) AN ORDINANCE ADOPTED BY A SUPERMAJORITY OF THE MUNICIPAL COUNCIL WHICH MUST BE AT LEAST TWO-THIRDS OF THE MEMBERS OF A MUNICIPAL COUNCIL. HOWEVER, IF THE FEE IS IMPOSED BY ORDINANCE, THE FEE MAY NOT EXCEED ONE PERCENT ON THE GROSS PROCEEDS OF SALES OR SALES PRICE OF ALL AMOUNTS SUBJECT TO THE SALES AND USE TAX IMPOSED PURSUANT TO CHAPTER 36, TITLE 12, BUT NOT THE GROSS PROCEEDS OF THE SALE OF ITEMS SUBJECT TO A MAXIMUM TAX IN CHAPTER 36, TITLE 12 AND THE GROSS PROCEEDS OF SALES OF UNPREPARED FOOD THAT LAWFULLY MAY BE PURCHASED WITH UNITED STATES DEPARTMENT OF AGRICULTURE FOOD COUPONS; OR

(2) THE APPROVAL OF A MAJORITY OF QUALIFIED ELECTORS VOTING IN A REFERENDUM HELD PURSUANT TO THIS SECTION CALLED BY A MAJORITY OF THE MEMBERS OF THE MUNICIPAL COUNCIL.

IN THE CASE OF AN IMPOSITION BY ORDINANCE, THE TEXT OF THE ORDINANCE MUST CONTAIN A DETAILED STATEMENT THAT THE DESIGNATED ECONOMIC DEVELOPMENT SITE WILL MEET THE

REQUIREMENTS SET FORTH IN SECTION 4-10-1120(1) BEFORE THE MUNICIPALITY MAY PAY ANY INFRASTRUCTURE REIMBURSEMENT. REGARDLESS OF THE METHOD OF IMPOSITION, IF THE SITE FAILS TO MAINTAIN THE REQUIREMENTS SET FORTH IN SECTION 4-10-1120(1), THE MUNICIPALITY MAY INCLUDE, AT THE MUNICIPAL COUNCIL'S DISCRETION, PROVISIONS IN THE ORDINANCE WHICH MAY SUSPEND OR REPEAL THE FEE, OR REQUIRE THE OWNERS OF THE SITE TO REFUND TO THE MUNICIPALITY ANY FEE REVENUES EXPENDED ON INFRASTRUCTURE WITHIN THE SITE ON A PRO-RATA BASIS OR OTHERWISE, AS THE COUNCIL MAY DEEM NECESSARY OR APPROPRIATE./

RENUMBER SECTIONS TO CONFORM.

AMEND TITLE TO CONFORM.

HOUSE
AMENDMENT

THIS AMENDMENT
ADOPTED

CONE/MELTON
APRIL 27, 2010

CLERK OF THE HOUSE

REP. HERBKERSMAN PROPOSES THE FOLLOWING
AMENDMENT No. TO H. 4374
(COUNCIL\BBM\9742HTC10):

REFERENCE IS TO THE BILL AS INTRODUCED.

**AMEND THE BILL, AS AND IF AMENDED, BY
STRIKING SECTION 12-6-3586(D), AS CONTAINED
IN SECTION 1, PAGE 2, AND INSERTING:**

**/ (D) SUBJECT TO THE OVERALL LIMITS
IMPOSED PURSUANT TO SUBSECTION (E) OF THIS
SECTION, THE CREDIT ALLOWED BY THIS
SECTION MAY NOT EXCEED THE APPLICABLE
CEILINGS PROVIDED IN THIS SUBSECTION.**

**(1)A CEILING OF ONE MILLION DOLLARS
FOR EACH INSTALLATION APPLIES TO SOLAR**

ENERGY EQUIPMENT PLACED IN SERVICE FOR ANY PURPOSE OTHER THAN RESIDENTIAL.

(2)THE FOLLOWING CEILINGS APPLY TO SOLAR ENERGY EQUIPMENT PLACED IN SERVICE FOR RESIDENTIAL PURPOSES:

(A) ONE THOUSAND FOUR HUNDRED DOLLARS FOR EACH DWELLING UNIT FOR SOLAR ENERGY EQUIPMENT FOR DOMESTIC WATER HEATING, INCLUDING POOL HEATING;

(B) THREE THOUSAND FIVE HUNDRED DOLLARS FOR EACH DWELLING UNIT FOR SOLAR ENERGY EQUIPMENT FOR ACTIVE SPACE HEATING, COMBINED ACTIVE SPACE AND DOMESTIC HOT WATER SYSTEMS, AND PASSIVE SPACE HEATING;

(C) TEN THOUSAND FIVE HUNDRED DOLLARS FOR EACH INSTALLATION FOR ANY OTHER SOLAR ENERGY EQUIPMENT FOR RESIDENTIAL PURPOSES.

(E) CREDITS EARNED PURSUANT TO THIS SECTION MAY NOT AGGREGATE MORE THAN ONE MILLION DOLLARS IN ANY ONE STATE FISCAL

YEAR FOR ALL CREDITS EARNED PURSUANT TO THIS SECTION FOR A REPORTING PERIOD ENDING IN THAT FISCAL YEAR. TO THE EXTENT CREDITS EARNED EXCEED THE AGGREGATE LIMIT, THE DEPARTMENT OF REVENUE SHALL REDUCE CREDITS EARNED PROPORTIONATELY.

(F) NO NEW CREDIT IS ALLOWED PURSUANT TO THIS SECTION FOR ANY SOLAR ENERGY EQUIPMENT PLACED IN SERVICE AFTER JUNE 30, 2014, BUT CREDITS EARNED BEFORE JULY 1, 2014, MAY BE CARRIED FORWARD AS PROVIDED IN THIS SECTION. /

AMEND FURTHER, PAGE 3, BY STRIKING SECTION 2 AND INSERTING:

/ SECTION 2. THIS ACT TAKES EFFECT UPON APPROVAL BY THE GOVERNOR AND APPLIES FOR INSTALLATIONS OF SOLAR ENERGY EQUIPMENT PLACED IN SERVICE AFTER JUNE 30, 2010. /

**RENUMBER SECTIONS TO CONFORM.
AMEND TITLE TO CONFORM.**

HOUSE
AMENDMENT

THIS AMENDMENT
ADOPTED

CONE/MELTON
APRIL 27, 2010

CLERK OF THE HOUSE

REP. HERBKERSMAN PROPOSES THE FOLLOWING
AMENDMENT No. TO S. 717
(COUNCIL\BBM\9738HTC10):

REFERENCE IS TO PRINTER'S DATE 2/3/10--S.

**AMEND THE BILL, AS AND IF AMENDED, PAGE 2,
BY STRIKING SECTION 2 IN ITS ENTIRETY.**

RENUMBER SECTIONS TO CONFORM.
AMEND TITLE TO CONFORM.